

United States District Court

WESTERN DISTRICT OF WASHINGTON

CALVIN ROUSE (A.K.A.) ABDUR
RASHID KHALIF

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, et al.,

JUDGMENT IN A CIVIL CASE

CASE NUMBER: C08-5620FDB

— **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

XX **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

The Court adopts the Report and Recommendation;

The motion is **GRANTED** as to the Department of Corrections because the Department is not a person for purposes of 42 U.S.C. § 1983. The Eleventh Amendment also precludes the action against the Department. This is **DISMISSAL WITH PREJUDICE**.

Defendant Eldon Vail's Motion to Dismiss on Eleventh Amendment grounds is **DENIED**. As Secretary for the Department of Corrections, he is the proper defendant for an action seeking injunctive relief regarding the implementation of DOC policy 400.280.

The Motion to Dismiss claims for nominal damages is **GRANTED**. Plaintiff failed to pled facts showing what, if any, action the named defendants played in the alleged constitutional deprivations. This is **DISMISSAL WITH PREJUDICE**.

April 16, 2009

Date

BRUCE RIFKIN

Clerk

s/CM Gonzalez

Deputy Clerk